DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP
Attorneys for the Debtor
One North Lexington Avenue
White Plains, New York 10601
(914) 681-0200
Jonathan S. Pasternak, Esq.
Dawn Kirby, Esq.

Hearing Date: August 24, 2017
Hearing Time: 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
---X
In re:

FINGER LAKES DEBT PARTNERS, LLC,

Debtor.
---X

Chapter 11
Case No. 17-20000 (RDD)

DEBTOR'S MOTION OBJECTING TO PROOF OF CLAIM NO. 2 HELD BY LYRICAL OPPORTUNITY PARTNERS, L.P. SEEKING TO RECLASSIFY CLAIM

**TO: HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:**

Finger Lakes Debt Partners, LLC, the above captioned debtor and debtor-in-possession ("Debtor"), by its attorneys DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, files this motion (the "Motion") for order reclassifying Proof of Claim No. 2 (the "Proof of Claim") filed by Lyrical Opportunity Partners, L.P. ("Lyrical") pursuant to §502, 503 and 507 of 11 U.S.C. §§ 101, et seq., (the "Bankruptcy Code") and Rule 3007(a) and (d) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). In support of the Motion, the Debtor respectfully represents as follows:

Jurisdiction and Venue

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and

1334. Consideration of the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

3. This proceeding has been initiated pursuant to Bankruptcy Code §§502, 503 and 507 and Bankruptcy Rules 3007(a) and (d).

Background

4. On January 11, 2017, (the "Filing Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (the "Chapter 11 Case"). Thereafter the Debtor's proceeding was referred to this Court for administration under the Bankruptcy Code.

5. The Debtor has continued as a Debtor-in-Possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

6. No trustee, examiner or statutory committee has been appointed.

7. The Debtor is an asset Management firm that was formed in 2003.

8. On January 11, 2017, the Debtor filed Schedules of Assets and Liabilities and a Statement of Financial Affairs (the "Schedules").

9. By Order dated February 24, 2017 (the "Bar Date Order"), the Court established April 6, 2017 as the last day by which certain proof of claim could be timely filed (the "Bar Date"). In accordance with the Bar Date Order, written notice of the Bar Date was mailed to, among others, all creditors listed on the Schedules.

Relief Requested

10. By this Motion, the Debtor seeks to reclassify the Proof of Claim filed by Lyrical from an unsecured, nonpriority claim to an equity interest in the Debtor.

11. The Proof of Claim filed by Lyrical asserted an unsecured nonpriority claim in the amount of $4,968,393.43 for money loaned based upon an Amended and Restated Promissory Note

dated March 10, 2006 (the "Note"), a copy of which is attached to the Proof of Claim, which is annexed hereto as **Exhibit "A"**.

12. Pursuant to terms of the Note, for purposes of collecting any amounts due under the Note, Lyrical shall be deemed an equity holder of the Borrower, i.e., the Debtor. Specifically, paragraph 7(b) of the Note states as follows (**emphasis added**):

> 7. Remedies on Default.
>
> (a) If any Event of Default shall occur and be continuing, then the entire principal amount and accrued but unpaid interest due under this Note shall, at the option of the Holder hereof and upon written notice to the Borrower by the Holder, become immediately due and payable. In addition, upon the occurrence of any Event of Default, the interest rate of this Note shall increase to 24% per annum or the maximum interest rate allowable under applicable usury laws.
>
> (b) Notwithstanding Paragraph 7(a), **Holder agrees that for purposes of collecting any and all amounts due hereunder upon the occurrence and during the continuance of an Event of Default** (provided that the Holder shall be permitted, as such time, to enforce its rights hereunder and retain payments received hereunder) **Holder shall be deemed an equity holder of Borrower and, accordingly, Holder's claims for any and all amounts due hereunder shall be junior to other creditors of the Borrower and shall be on a pro-rata basis with the equity holders of Borrower**.

13. Based upon the clear unambiguous language of the Note, any claim asserted by Lyrical as the Holder of the Note are deemed solely an equity interest.

14. Accordingly, the Debtor seeks to have Lyrical's Proof Claim reclassified as only an equity interest in the Debtor.

NOTICE

15. The Motion is being served upon: (i) Lyrical Opportunity Partners, L.P., (ii) the Office of the U.S. Trustee, and (iii) all parties filing notice of appearance. The Debtor submits that such service is good and sufficient notice, as required by Bankruptcy Rules and Local

Bankruptcy Rule 9013-1(c).

WHEREFORE, the Debtor respectfully requests the entry of the proposed Order annexed hereto as **Exhibit "B"** reclassifying the Proof of Claim filed by Lyrical as an equity interest in the Debtor, together with such other and further relief as is just, proper and equitable under the circumstances.

Dated: White Plains, New York
June 2, 2017

DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP
Attorneys for the Debtor
One North Lexington Avenue
White Plains, New York 10601
(914) 681-0200

By: */s/ Jonathan S. Pasternak*
Jonathan S. Pasternak